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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/016,522 | 11/01/2001 | Xavier Le Hericy | 3561-101 | 8332 |

7590 12/22/2005

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| EXAMINER | |
|---|---|
| NGUYEN, NGHIA D | |
| ART UNIT | PAPER NUMBER |

DATE MAILED: 12/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/016,522 | HERICY ET AL. | |
| | Examiner | Art Unit | |
| | Patrick D. Nguyen | 3629 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *01 November 2001*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-13* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-13* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *01 November 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over of Applicant Admitted Prior Art (or APPA) and in view of Middleton, III et al (U.S Patent 6,393,407)

As for Claim 1, AAPA discloses the method of publishing a webpage is widely known. AAPA discloses the following methods, which is inherent in Middleton method of tracking webpage advertising. Middleton also disclose a method of tracking by using an applet (i.e....data mining & tracking code) a) and reporting visitor-side web page loading times over a web site comprising:

a) Storing a web page on a first server coupled to a wide area network, said web page including web page code and data mining code;

b) Uploading the web page to a visitor computer responsive to a request over the wide area network from the visitor computer;

c) Operating the data mining code on visitor computer to obtain a begin state at the start of the webpage load.

d) Middleton also discloses a method of obtaining loading time by comparing initial state and ending state (Column 4, line 53 – Column 5). It would have been obvious to modify AAPP teaching with Middleton to optimize site for faster download and spot improvement to html codes.

As for Claim 2, AAPP fairly discloses:

a) The method of retrieving computer clock reading is well known, (i.e.. retrieving fist clock reading, second clock reading)

b) However, AAPP failed to disclose a method of comparing begin state of the first clock reading and second to determine page loading time data. Middleton discloses a method of obtaining loading time by comparing initial state and ending state (i.e....comparing the difference between the second computer clock reading and the first clock reading Column 4, line 53 – Column 5). It would have been obvious to modify AAPP and Middleton to optimize site for faster download and spot improvement to html codes.

As for Claim 3, AAPP fairly discloses:

a) The method of retrieving computer clock reading is well known, as well as detecting a request to move to a different web page;

b) The method of retrieving a third clock reading by using an event handler is well known.

c) However, AAPP failed to disclose a method of comparing begin state of the second clock reading and third to determine page loading time data. Middleton discloses a method of obtaining loading time by comparing second state and third state when user leaves a webpage (Column 5 line 42-55). It would have been obvious to modify AAPP teaching with Middleton to optimize site for faster download and spot improvement to html codes.

As for Claim 4, AAPP fairly discloses the method of inserting data mining code into a regular webpage is well known. Programs for analyzing traffic on a network server, such as a worldwide web server, are known in the art to use hmtl, java, JavaScript, php codes or any other programming language codes. Middleton discloses a method of obtaining loading time by comparing initial state and ending state (Column 4, line 53 – Column 5) It would have been obvious to modify AAPP teaching with Middleton to obtain valuable the clock reading data that can be use for optimization of website for faster download.

As for Claim 5, 6, 7, & 8, AAPP fairly discloses the method of overloading event handler's codes into a regular webpage is well known. Programs for analyzing traffic on a network server, such as a worldwide web server, are known in the art to use event handler codes to detect changes of states or any other programming language codes. ). It would have been obvious to modify AAPP teaching of overloading even handler with Middleton's teaching to obtain code that can be use to optimize website for faster download.

As for Claim 9, AAPP fairly discloses compiling detected data and posting it on a website report is well known. Programs for analyzing traffic on a network server, such as a worldwide web server, are known in the art. Middleton discloses a method of obtaining loading time by comparing initial state and ending state (Column 4, line 53 – Column 5). ). It would have been obvious to modify AAPP teaching posting the report for viewing with Middleton's teaching to obtain a way to view traffic over the wide area network.

As for Claim 10 &11, AAPP disclose method for

a) Tracking and reporting visitor-side web page loading times over a web site comprising: storing a web page on a first server coupled to a wide area network, said web page including web page code and data mining code;

b) Uploading the web page to a visitor computer responsive to a request over the wide area network from the visitor computer;

c) Operating the data mining code on visitor computer to obtain a begin state at the start of the webpage load.

d) AAPP failed to teach the method of page loading times over a web by detecting state changes. Middleton discloses a method of obtaining loading time by comparing initial state and ending state (Column 4, line 53 – Column 5). ). It would have been obvious to modify AAPP teaching with Middleton to optimize site for faster download and spot improvement to html codes.

For Claim 11, AAPP failed to disclose a method of comparing begin state of the clock reading and end state to determine page loading time data. NetMechanic failed to specifically discloses the algorithm to determine the load time. However Middleton discloses a method of obtaining loading time by comparing second state and third state when user leaves a webpage (Column 5 line 42-55) ). It would have been obvious to modify AAPP teaching with Middleton to optimize site for faster download and spot improvement to html codes.

For Claim 12, AAPP fairly disclose the step of reporting a webpage load failure. It is obvious to one of ordinary skill in the art that there should be no differences in begin and end state if no page load took place.

For Claim 13, complying the different and posting the result is a well-known practice in generating website traffic report.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick D. Nguyen whose telephone number is 7038395713. The examiner can normally be reached on 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Weiss can be reached on (571) 272 - 6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NN

JOHN G. WEISS
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